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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,618	11/30/2001	David Stein	1136/032	4922

7590

09/23/2003

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EXAMINER

NGUYEN, KIEN T

ART UNIT

PAPER NUMBER

3712

DATE MAILED: 09/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/998,618

Applicant(s)

STEIN, DAVID

Examiner

Kien T. Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-14,16-19,21-29 and 32-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-14,16-19,21-29 and 32-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5-14, 16-19, 21-29, and 32-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Logan U.S. Patent 6,449,460 in view of Foley et al. U.S. Patent 5,944,531.

Logan disclosed a teaching method and kit comprising a plurality of pages (18) with each page containing song lyrics (24), a binder connects the pages. It is noted that Logan failed to teach the pages are waterproof and support means for supporting the pages in a shower enclosure. However, as noted in the specification of the present application, singing in a shower enclosure is very well known and countless number of people have done it for a long time; Foley et al. teach an instructional display (10) being waterproof (column 4, lines 48-53) and can be utilized in the shower or other humid/wet conditions environments; a support means such as adhesion portion (38) for attaching the display on the shower, other supporting means such as Velcro, glue, screws, hooks, suction cups and/or stands may be used with the display (see column 4, lines 65-66), the listed supporting means clearly indicated or implied that the display (10) is removable or adjustable to accommodate different users. Therefore, it would have been obvious to one of ordinary skill in the art to modify the pages of Logan with the teaching of waterproof page and supporting means for attaching the pages to the

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shower for the advantage of providing a wider usage of the singing teaching device of Logan.

Regarding the limitation “the support means including a thin layer, located between the page and said surface, attaching the page to the surface by water adhesion”, applicant’s attention is directed to the above explanation, Foley et al clearly suggested that any suitable supporting means may be used for supporting the page to the surface of the shower. Accordingly, it would have an obvious choice of design to one skilled in the art to utilize water in combination with an adhesive to removably attach the apparatus of Logan as modified by Foley et al because it appears that such supporting means is equivalent to any one of the listed supporting means of Foley et al and could be used interchangeably.

Regarding the specific dimensions and types of suction cups as set forth in claims 9-11, 22, 23, throughout the entire application, applicant implied and/or indicated that all the disclosed or claimed supporting means are equivalent to each other and the only common item between the different types of supporting means is the use of a layer of water (see page 11 of the specification), again it would have been a matter of design choice to use water in combination with any listed supporting means of Foley et al for the reason as set forth above.

### ***Response to Arguments***

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically

pointing out how the language of the claims patentably distinguishes them from the references.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kien T. Nguyen whose telephone number is (703) 308-2493. The examiner can normally be reached on 7:30 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

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A handwritten signature in black ink, appearing to read 'Kien T. Nguyen', written in a cursive style.

Kien T. Nguyen  
Primary Examiner  
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Ktn